IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.1768 of 2007

Date of Decision: 5.2.2007

Jarnail Singh .....Petitioner

Versus

State of Punjab and another .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KHEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Gopal Mahajan, Advocate
for the petitioner.

Mr.Kanwaljit Singh, Advocate for respondent 2.

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S.D.ANAND, J.

1. The grievance of the petitioner is that he has been transferred thrice during the last about three months and further that his latest transfer is violative of the instructions issued by the Government regulating the posting and transfer of an employee who is due to retire in the near future.

2. In order to buttress the grievance aforesaid, it was pointed out that the petitioner was first transferred from Ludhiana to Ropar vide order dated 28/29.12.2006 (Annexure P4/T), then from Ropar to Jagraon vide order dated 17.1.2007(Annexure P6) and lastly from Jagraon to Kharar vide order dated 30.1.2007 (Annexure P8).

3. Though no formal written statement has been filed, the plea raised by learned counsel appearing for the private respondent No.2 is that the impugned transfer order was occasioned on account of the instructions

issued by the Election Commission of India.

4. As would be apparent from the perusal of order dated 28/29.12.2007 (Annexure P4/T), the issuance thereof was occasioned on account of certain instructions issued by the Personnel Department vide No.7/33/04-1 PP2/13767 dated 11.10.2006 and 7/33/04-1PP2/17910 dated 6.12.2006. The transfer orders dated 17.1.2007 are also indicated in the course of Annexure P6 to have been issued in accord with the Personnel Department letter No.7/51/2001/1PP2/18603 dated 29.12.2003.

5. There is no allegation that there are any malafides in the context. The guidelines are, by the very nature of things, directory in character and cannot be deemed to have a compulsive mandate. That aspect would be particularly relevant in the context of the instructions issued by the Election Commission of India. Apart therefrom, transfer in the course of public service is an unavoidable incident of duty and mere factum thereof cannot give rise to a valid grievance. It would be relevant to notice here that the petitioner was initially posted at Ropar wherefrom he had to be shifted on account of the instructions of the Election Commission that an Officer is not to be posted at the Home District during the election process. The petitioner belongs to District Ropar.

6. We have not been able to persuade ourselves to find any force in the petition.

7. Dismissed.

(S. D. ANAND)
JUDGE

(J. S. KHEHAR)
JUDGE

February 5, 2007
SRM